



**THE CITY OF NEW YORK
LAW DEPARTMENT**

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August 11, 2021

SO ORDERED

Honorable George B. Daniels (*by ECF*)
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

The status conference is adjourned from August 17, 2021 to November 9, 2021 at 9:45 a.m.

Re: Fleming v. City of New York, et al., 18 CV 4866 (GBD)

Dear Judge Daniels:

I am an attorney in the office of Georgia M. Pestana, Corporation Counsel of the City of New York, counsel for defendants City of New York, Joseph Ponte, Desmond Blake, Fred Rolle, Jorel Ward, Curlee Williams, and John Wisti (defendants). I write with reference to the above-referenced civil action brought pursuant to 42 U.S.C. § 1983, to: (i) update the Court on the status of discovery; (ii) request an extension of the current discovery schedule on behalf of all parties as set forth below; and (iii) request, with the consent of all counsel (which includes counsel for plaintiff and counsel for the medical co-defendants), an adjournment of the conference that is now set for Tuesday, August 17, 2021, at 9:45 a.m.

With regard to the status of discovery, substantial written discovery has taken place to date. In addition to responses to document requests and interrogatories, the parties have exchanged extensive written materials. Plaintiff has produced in excess of 7,000 pages of materials, DOC defendants have produced in excess of 1,200 pages of documents and additional audiovisual materials, and the medical defendants have produced extensive medical records relating to treatment of plaintiff's decedent. The exchange of documents is ongoing. Among other things, the parties are continuing to exchange materials and to gather medical records from non-parties related to certain of plaintiff's claims pursuant to releases that have been produced by plaintiff. Counsel for the parties have engaged in several lengthy "meet and confer" sessions over the past several months to discuss the tasks to be accomplished in discovery going forward, and have been actively discussing deposition discovery, which they anticipate will commence after the exchange of the relevant written materials. As a result of the complexity of the case and the many claims alleged against multiple defendants who are represented by different counsel, the parties anticipate that they will likely need to exceed the presumptive limit on the number of depositions contemplated by the Federal Rules and are discussing the number and nature of the depositions.

Given the current status of discovery, the parties ask that the current September 15, 2021 fact discovery deadline be extended to March 30, 2022. Based on the current schedule, expert discovery is set to close on December 30, 2021. In keeping with the time frame set in the current schedule, the parties ask that the new date for expert discovery be extended to July 15, 2022.

With regard to the August 17, 2021 conference, the undersigned has a scheduling conflict for the morning of August 17, 2021. Accordingly, the DOC defendants ask, with the consent of all counsel, that the conference be adjourned to an alternative date and, in light of the above, respectfully proposes an adjournment to a date in mid-October. I have been informed that Chambers contacted counsel for plaintiff to inquire as to whether the parties intended to present issues to the Court for resolution or to request an adjournment. The parties agree that there are no issues at present to be resolved by the Court and that a conference is not necessary for that purpose.

Lastly, if the Court resolves to hold a conference in the near future, the parties respectfully request that, in light of concerns relating to the Coronavirus pandemic and the Delta variant, that the conference be held remotely.

Thank you for your consideration of the above.

Respectfully submitted,

/s/ Susan P. Scharfstein

Susan P. Scharfstein

cc: All Counsel of Record